IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 2636 of 1998

Between:

Sri, P.K.Amresh, S/o. P.A.Krishna Murhty,
Asst. Manager, UCO Bank, Jubilee Hills branch, Hyderabad.

..... PETITIONER

AND

1 The Regional Manager, Regional Officer,
UCO Bank, Himayatnagar ,
Hyderabad.
2 The Zonal Manager,Zonal Office, UCO Bank,
K.G.Road, Bangalore -9.
3 The General Manager,Head Office, UCO Bank,
10, Drouborns Road, Calcutta - 700 001.

4 The Chairman and Managing Director, Head Office, I.O.,

Drouborns Road, Calcutta.

(R4 is impleaded as per Court Orders Dt.08-06-2005 in

W.P.M.P.No.2661 of 2000)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or direction more in the nature of writ of Mandamus directing the respondents herein to promote the petitioner as a Scale-II Officer, with effect from 1.7.1983 as stated in the affidavit with all monetary benefits and further promotion from Scale -II to Scale-III from it's due date and all the consequential benefits accrue thereon including further promotion, seniority etc., which are deem fit and proper in the ends of justice.

Counsel for the Petitioner: MR.G.ANJAPPA
Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court made the following :

ORDER:

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This writ petition is filed seeking a mandamus to direct the respondents to promote the petitioner as scale-II Officer with effect from 01-07-1983 with all monetary benefits and further promote from the scale-II to scale-III from its due date with all consequential benefits.

2 . It is the case of the petitioner that he was appointed as a clerk in United Commercial Organisation (UCO) Bank with effect from 21-05-1968 at Itwari branch, Nagpur, Maharastra State. The petitioner appeared for the test conducted by the bank on 10-08-1975 for considering promotion to the post of scale-I Officer. He was qualified and promoted as scale-I Officer with effect from 31-08-1976 and since then he has been working in this capacity. In the year 1987 he was transferred to Hyderabad branch and working in the State of Andhra Pradesh since then. While so, some of the Officers, who had appeared for the examination for promotion to the post of scale-I Officer on 10-08-1975 and passed the test along with the petitioner were promoted with effect from 01-01-1976 and some others were promoted with effect from 31-08-1976. The petitioner belongs to the latter category of Officers promoted with effect from 31-08-1976. The officers of latter category who were promoted with effect from 31-08-1976 like the petitioner, approached the Calcutta High Court by way of C.R.No.5537 of 1984. The Calcutta High Court allowed the said case on 24-02-1988 with the following direction:

> "For the reasons aforesaid, this application is allowed. The petitioners No.1 to 13 and those who are similarly situated officers being members of the petitioner No.14 shall be treated as promotee in the Bank's Officers Grade 'D' (now known Scale-I) with effect from 01-01-1976. Their seniority shall be nationally fixed on that basis and all consequential service benefits save and except monetary benefits shall be given to them".

3. After the said judgment the head office examined the entire issue including the further promotion with retrospective effect and issued a circular dated 05-03-1988 calling upon all the officers and branches concerned to submit their appeals to the Chairman & Managing Director of the Bank requesting the said authority to promote them also from Scale-I to Scale-II Officers with effect from 01-07-1983 within a period of ten days from the receipt of the said circular. However, the said circular was not received at the Sultan Bazar, Koti Branch of UCO bank at Hyderabad and the petitioner is not aware of the same. Therefore, the petitioner could not send appeal as required under the circular. He came to know about the circular dated 05-03-1988 in the second week of July 1988 and immediately on 16-07-1988 submitted his appeal to the Chairman and Managing Director, Head Office, Calcutta, through proper channel, requesting the said authority to promote him to the scale-II Officer post on par with similarly situated other officers with effect from 01-07-1983 with all monetary benefits. The said appeal filed by the petitioner was received by the head office and the petitioner received a reply on 16-09-1988 stating that having regard to belated submission of the appeal to the office, the same could not be considered by the bank. He sent another letter dated 31-03-1989 informing the head office again as to the non receipt of the circular dated 05-03-1988 by the Hyderabad office and as such he submitted the appeal belatedly and the same may be accepted and considered. In fact, the Hyderabad main branch office of the bank itself has sent a similar communication dated 15-02-1990 to the head office requesting the head office to consider the appeal filed by the petitioner suitably and action may be taken in the matter. Though the said letter sent by the Hyderabad main branch office was acknowledged by the head office, nothing has happened. From time to time the petitioner and also the Hyderabad main branch had been sending several reminders in this regard, but no action was taken. The petitioner filed several reminders thereafter on 22-01-1993, 14-12-1993, 12-02-1995, 24-12-1995, 14-10-1996, but no action has been taken by the authorities. Further, he had also sent letters dated 25-02-1997, 19-06-1997, 01-09-1997, 03-09-1997, 01-12-1997 and 11-12-1997. Since

the petitioner vexed up with the matter he had to approach this Court by way of filing this writ petition.

4 . A detailed counter-affidavit has been filed by the respondents denying all the allegations made by the petitioner. The bone of contention of the respondents is that circular dated 05-03-1988 was sent to all the branches all over the country including the branch wherein the petitioner was working at that relevant point of time i.e., Sultan Bazar, Koti Branch of Hyderabad, advising all the concerned to make appeal. Hence, the contention of the petitioner that a copy of the circular was not received by his branch office is denied. The respondents-bank has not received any complaint from any quarter from where the appeals were made on account of non-promotion particularly from the zone in which the petitioner is posted. There were seven officers from his zone who were promoted as per the orders of the Hon'ble High Court of Calcutta. The bank has not received any communication from any of these persons intimating non-receipt of the bank's aforesaid circular. In other words, all these persons were in the knowledge of issuance of such circular. Except saying this, there is no denial as to the allegations made by the petitioner that the Hyderabad branch office also sent a communication to the Head Office intimating that the said circular dated 05-03-1988 was not received by them and requested the authorities to accept the appeal filed by the petitioner belatedly. Therefore, the contention of the respondents that as the petitioner submitted his appeal dated 16-07-1988 belatedly after expiration of the prescribed period, his appeal was rejected by the competent authority and the said decision was communicated to him by letter dated 16-09-1988 is untenable. Further, though the application of the petitioner was rejected long ago, he went on making representations for ten years and he did not approach any Court of law.

5. It is the simple case of the petitioner that the circular dated 05-03-1988, asking all the concerned to make appeals for promotion as per the direction of the Calcutta High Court judgment, was not received by the office in which he was working. It is also the assertion made by the petitioner that Hyderabad main office also addressed a letter to the Head office saying that the said circular dated 05-03-1988 was not received by him was not denied and therefore the rejection of the case of the petitioner on 16-09-1988 or non-consideration of his application filed thereafter is nothing but arbitrary on the part of the respondents. It is curious to note that it is not the case of the respondents that the petitioner was not entitled for being promoted to

the scale-II Officer's post on par with others as per the judgment of the Calcutta High Court. The only contention of the respondents is that since the petitioner filed a belated application, the same was rejected. Thereafter the petitioner went on making representations; therefore the same cannot be considered. This is a case of simple promotion on the basis of the seniority earned in the Department by the petitioner in a particular cadre. Such a promotion cannot be denied on trivial lapses assuming that the petitioner has committed one such lapse, which of course is not proved by the management and the management could not have rejected his appeal.

6. For all the above reasons, the respondents are directed to re-consider the appeal and the representations filed by the petitioner from time to time for being promoted to the post of scale-II officer and further promotion thereafter on par with his juniors without raising the objection as to the limitation etc., within a period of three months from the date of receipt of a copy of this order and communicate the same to the petitioner within a period of one week thereafter.

7. The writ petition is disposed of with the above direction. No order as to costs.

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C.V.RAMULU, J.

Dated 08-06-2005.

SKMR

..... REGISTRAR

Copy to:

1 The Regional Manager, Regional Officer,
UCO Bank, Himayatnagar,
Hyderabad.
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Drouborns Road, Calcutta.

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